

AMENDED IN ASSEMBLY JUNE 4, 2014

AMENDED IN SENATE APRIL 21, 2014

AMENDED IN SENATE MARCH 28, 2014

SENATE BILL

No. 1027

**Introduced by Senator Hill
(Coauthor: Senator Leno)**

February 14, 2014

An act to add Title ~~1.18.27~~ *1.81.27* (commencing with Section 1798.91.1) to ~~Article 12 of Chapter 1~~ of Part 4 of Division 3 of the Civil Code, relating to personal data.

LEGISLATIVE COUNSEL'S DIGEST

SB 1027, as amended, Hill. Booking photographs: commercial use.

The California Public Records Act requires public records to be open to inspection at all times during the office hours of the state or local agency that retains those records, and provides that every person has a right to inspect any public record, except as provided.

Existing law requires a business to take reasonable steps to protect unintended disclosure of customer information and limits the way personal information on customers can be used and disseminated.

This bill would prohibit a person, as defined, who publishes a booking photograph, as defined, via print or electronic means from soliciting or accepting a fee or other consideration *from a subject individual, as defined*, to remove, correct, or modify that photograph, as specified. The bill would authorize a subject individual, ~~as defined~~, who is aggrieved by a violation of these provisions to bring a civil suit to recover the greater of actual damages or a \$1,000 penalty for each violation, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Title ~~1.18.27~~ 1.81.27 (commencing with Section 1798.91.1) is added to Article 12 of Chapter 4 of Part 4 of Division 3 of the Civil Code, to read:

TITLE ~~1.18.27~~ 1.81.27. COMMERCIAL USE OF BOOKING
PHOTOGRAPHS

1798.91.1. (a) For the purposes of this section, the following definitions shall apply:

(1) “Booking photograph” means a photograph of a subject individual taken pursuant to an arrest or other involvement in the criminal justice system.

(2) “Subject individual” means an individual who was arrested and had his or her booking photograph taken.

(3) “Person” means a natural person, partnership, joint venture, corporation, limited liability company, or other entity.

(4) “Public entity” means the state, county, city, special district, or other political subdivision therein.

(b) It shall be unlawful practice for any person engaged in publishing or otherwise disseminating a booking photograph through a print or electronic medium to solicit or accept the payment of a fee or other consideration from a subject individual to remove, correct, or modify that booking photograph.

(c) Notwithstanding subdivision (b), a public entity may charge or collect a fee to correct, modify, or remove a booking photograph.

(d) Each payment solicited or accepted in violation of these provisions constitutes a separate violation.

(e) In addition to any other sanctions, penalties, or remedies provided by law, a subject individual may bring a civil action in any court of competent jurisdiction against any person in violation of this section for damages in an amount equal to the greater of one thousand dollars (\$1,000) per violation or the actual damages suffered by him or her as a result, along with costs, reasonable attorney’s fees, and any other legal or equitable relief.

1 (f) The jurisdiction of a civil action brought pursuant to
2 subdivision (e) shall also include the county in which the subject
3 individual resides at the time of the violation of this section.

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